

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013**

**HOUSE BILL 998  
RATIFIED BILL**

AN ACT TO SIMPLIFY THE NORTH CAROLINA TAX STRUCTURE AND TO REDUCE  
INDIVIDUAL AND BUSINESS TAX RATES.

The General Assembly of North Carolina enacts:

**PART I. INDIVIDUAL INCOME TAX CHANGES**

**SECTION 1.1.(a)** The following statutes are recodified as indicated:

<u>Current Statute</u>	<u>Recodified Statute</u>
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-151.24	G.S. 105-153.10
G.S. 105-152	G.S. 105-153.8

**SECTION 1.1.(b)** The following statutes are repealed:

G.S. 105-134.2  
G.S. 105-134.3  
G.S. 105-134.6  
G.S. 105-134.7  
G.S. 105-134.8  
G.S. 105-151.1  
G.S. 105-151.11  
G.S. 105-151.12  
G.S. 105-151.13  
G.S. 105-151.14  
G.S. 105-151.18  
G.S. 105-151.20  
G.S. 105-151.21  
G.S. 105-151.25  
G.S. 105-151.26  
G.S. 105-151.33

**SECTION 1.1.(c)** G.S. 105-134.1, recodified by this Part as G.S. 105-153.3, reads as rewritten:

**"§ 105-153.3. Definitions.**

The following definitions apply in this Part:

- (1) Adjusted gross income. – Defined in section 62 of the Code.
- ~~(1a)~~(2) Code. – Defined in G.S. 105-228.90.
- ~~(2)~~(3) Department. – The Department of Revenue.
- ~~(3)~~(4) Educational institution. – An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.
- ~~(4)~~(5) Fiscal year. – Defined in section 441(e) of the Code.
- ~~(5)~~(6) Gross income. – Defined in section 61 of the Code.
- ~~(6)~~(7) Head of household. – Defined in section 2(b) of the Code.
- ~~(7)~~(8) Individual. – A human being.



- ~~(7a)~~(9) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited liability company authorized by that Chapter to transact business in this State that is classified for federal income tax purposes as a partnership. As applied to a limited liability company that is a partnership under this Part, the term "partner" means a member of the limited liability company.
- ~~(7b)~~ Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.
- ~~(8)~~(10) Married individual. – An individual who is married and is considered married as provided in section 7703 of the Code.
- ~~(9)~~(11) Nonresident individual. – An individual who is not a resident of this State.
- ~~(10)~~(12) North Carolina taxable income. – Defined in G.S. 105-134.5; G.S. 105-153.5.
- ~~(10a)~~(13) Partnership. – A domestic partnership, a foreign partnership, or a limited liability company.
- ~~(11)~~(14) Person. – Defined in G.S. 105-228.90.
- ~~(12)~~(15) Resident. – An individual who is domiciled in this State at any time during the taxable year or who resides in this State during the taxable year for other than a temporary or transitory purpose. In the absence of convincing proof to the contrary, an individual who is present within the State for more than 183 days during the taxable year is presumed to be a resident, but the absence of an individual from the state for more than 183 days raises no presumption that the individual is not a resident. A resident who removes from the State during a taxable year is considered a resident until he has both established a definite domicile elsewhere and abandoned any domicile in this State. The fact of marriage does not raise any presumption as to domicile or residence.
- (13) Retirement benefits. – Amounts paid to a former employee or the beneficiary of a former employee under a written retirement plan established by the employer to provide payments to an employee or the beneficiary of an employee after the end of the employee's employment with the employer where the right to receive the payments is based upon the employment relationship. With respect to a self-employed individual or the beneficiary of a self-employed individual, the term means amounts paid to the individual or beneficiary of the individual under a written retirement plan established by the individual to provide payments to the individual or the beneficiary of the individual after the end of the self-employment. In addition, the term includes amounts received from an individual retirement account described in section 408 of the Code or from an individual retirement annuity described in section 408 of the Code. For the purpose of this subdivision, the term "employee" includes a volunteer worker.
- ~~(14)~~(16) S Corporation. – Defined in G.S. 105-131(b).
- ~~(15)~~(17) Secretary. – The Secretary of Revenue.
- ~~(16)~~ Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years beginning on or after January 1, 2012.
- ~~(17)~~(18) Taxable year. – Defined in section 441(b) of the Code.
- ~~(18)~~(19) Taxpayer. – An individual subject to the tax imposed by this Part.
- ~~(19)~~(20) This State. – The State of North Carolina."

**SECTION 1.1.(d)** Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding the following new sections to read:

**"§ 105-153.5. Modifications to adjusted gross income.**

(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection that the taxpayer claimed under the Code. In the case of a married couple filing separate returns, a taxpayer may not deduct the standard deduction amount if the taxpayer or the taxpayer's spouse claims the itemized deductions amount.

(1) Standard deduction amount. – An amount equal to the amount listed in the table below based on the taxpayer's filing status:

<u>Filing Status</u>	<u>Standard Deduction</u>
----------------------	---------------------------

<u>Married, filing jointly</u>	<u>\$15,000</u>
<u>Head of Household</u>	<u>12,000</u>
<u>Single</u>	<u>7,500</u>
<u>Married, filing separately</u>	<u>7,500.</u>

(2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code.

a. The amount allowed as a deduction for charitable contributions under section 170 of the Code for that taxable year.

b. The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount claimed by the taxpayer as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars (\$20,000).

(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

(1) Interest upon the obligations of any of the following:

a. The United States or its possessions.

b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.

c. A nonprofit educational institution organized or chartered under the laws of this State.

(2) Gain from the disposition of obligations issued before July 1, 1995, to the extent the gain is exempt from tax under the laws of this State.

(3) Benefits received under Title II of the Social Security Act and amounts received from retirement annuities or pensions paid under the provisions of the Railroad Retirement Act of 1937.

(4) Refunds of State, local, and foreign income taxes included in the taxpayer's gross income.

(5) The amount received during the taxable year from one or more State, local, or federal government retirement plans to the extent the amount is exempt from tax under this Part pursuant to a court order in settlement of any of the following cases:

a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS 8230.

b. Emory v. State, 98 CVS 0738.

c. Patton v. State, 95 CVS 04346.

(6) Income that meets both of the following requirements:

a. Is earned or received by an enrolled member of a federally recognized Indian tribe.

b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

- (1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.
- (2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.
- (3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.
- (4) The amount excluded from gross income under section 199 of the Code.
- (5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

(d) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in this section and in G.S. 105-153.6.

**"§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation and expensing.**

(a) Special Accelerated Depreciation. – A taxpayer who takes a special accelerated depreciation deduction for that property under section 168(k) or 168(n) of the Code must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount taken for that year under those Code provisions. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income. A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

(b) 2009 Depreciation Exception. – A taxpayer who placed property in service during the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year reflected a special accelerated depreciation deduction allowed for the property under section 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is allowed to deduct this add-back under subsection (a) of this section as if it were for property placed in service in 2010.

(c) Section 179 Expense. – For purposes of this subdivision, the definition of section 179 property has the same meaning as under section 179 of the Code as of January 2, 2013. A taxpayer who places section 179 property in service during a taxable year listed in the table below must add to the taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the dollar and investment limitation listed in the table below for that taxable year. For taxable years before 2012, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable year 2012 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first five taxable years following the year the taxpayer is required to include the add-back in income.

<b><u>Taxable Year of 85% Add-Back</u></b>	<b><u>Dollar Limitation</u></b>	<b><u>Investment Limitation</u></b>
2010	\$250,000	\$800,000
2011	\$250,000	\$800,000
2012	\$250,000	\$800,000
2013	\$25,000	\$125,000

(d) Asset Basis. – The adjustments made in this section do not result in a difference in basis of the affected assets for State and federal income tax purposes.

**"§ 105-153.7. Individual income tax imposed.**

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is five and eight-tenths percent (5.8%) of the taxpayer's North Carolina taxable income.

(b) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a

return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period or to an estate or trust."

**SECTION 1.1.(e)** G.S. 105-151.24(a), recodified by this section as G.S. 105-153.10(a), reads as rewritten:

"(a) Credit. – ~~An individual~~ A taxpayer who is allowed a federal child tax credit under section 24 of the Code for the taxable year ~~and whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed below~~ is allowed a credit against the tax imposed by this Part ~~in an amount equal to one hundred dollars (\$100.00)~~ for each dependent child for whom the ~~individual taxpayer~~ individual taxpayer is allowed the federal ~~credit for the taxable year~~ credit. The amount of credit allowed under this section for the taxable year is equal to the amount listed in the table below based on the taxpayer's adjusted gross income, as calculated under the Code:

<u>Filing Status</u>	<u>AGI</u>	<u>AGI</u>
Married, filing jointly		\$100,000
Head of Household		80,000
Single		60,000
Married, filing separately		50,000.
<u>Filing Status</u>	<u>AGI</u>	<u>Credit Amount</u>
<u>Married, filing jointly</u>	Up to \$40,000	\$125.00
	Over \$40,000	
	Up to \$100,000	\$100.00
	Over \$100,000	0
<u>Head of Household</u>	Up to \$32,000	\$125.00
	Over \$32,000	
	Up to \$80,000	\$100.00
	Over \$80,000	0
<u>Single</u>	Up to \$20,000	\$125.00
	Over \$20,000	
	Up to \$50,000	\$100.00
	Over \$50,000	0
<u>Married, filing separately</u>	Up to \$20,000	\$125.00
	Over \$20,000	
	Up to \$50,000	\$100.00
	Over \$50,000	0."

**SECTION 1.1.(f)** This section is effective for taxable years beginning on or after January 1, 2014.

**SECTION 1.2.(a)** G.S. 105-153.7(a), as enacted by Section 1.1 of this Part, reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is five and ~~eight tenths percent (5.8%)~~ seventy-five hundredths percent (5.75%) of the taxpayer's North Carolina taxable income."

**SECTION 1.2.(b)** This section is effective for taxable years beginning on or after January 1, 2015.

**SECTION 1.3.(a)** G.S. 105-131.2(a) reads as rewritten:

"(a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is subject to the adjustments provided in ~~G.S. 105-134.6~~ G.S. 105-153.5 and G.S. 105-153.6."

**SECTION 1.3.(b)** G.S. 105-131.7(c) reads as rewritten:

"(c) An S Corporation shall file with the Department, on a form prescribed by the Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return and make timely payment of all taxes imposed by this State on the shareholder with respect to the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for purposes of the collection of any unpaid income tax, together with related interest and penalties, owed by the nonresident shareholder. If the corporation fails to timely file an agreement required by this subsection on behalf of any of its nonresident shareholders, then the corporation shall at the time specified in subsection (d) of this section pay to the Department on

behalf of each nonresident shareholder with respect to whom an agreement has not been timely filed an estimated amount of the tax due the State. The estimated amount of tax due the State shall be computed at the ~~rates levied in G.S. 105-134.2(a)(3)~~ rate levied in G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to the State reflected on the corporation's return for the taxable period. An S Corporation may recover a payment made pursuant to the preceding sentence from the shareholder on whose behalf the payment was made."

**SECTION 1.3.(c)** G.S. 105-134.5, recodified by this Part as G.S. 105-153.4, reads as rewritten:

**"§ 105-153.4. North Carolina taxable income defined.**

(a) Residents. – For an individual who is a resident of this State, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6~~, G.S. 105-153.5 and G.S. 105-153.6.

(b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6~~, G.S. 105-153.5 and G.S. 105-153.6, multiplied by a fraction the denominator of which is the taxpayer's gross income as modified in ~~G.S. 105-134.6~~, G.S. 105-153.5 and G.S. 105-153.6, and the numerator of which is the amount of that gross income, as modified, that is derived from North Carolina sources and is attributable to the ownership of any interest in real or tangible personal property in this State, is derived from a business, trade, profession, or occupation carried on in this State, or is derived from gambling activities in this State.

(c) Part-year Residents. – If an individual was a resident of this State for only part of the taxable year, having moved into or removed from the State during the year, the term "North Carolina taxable income" has the same meaning as in subsection (b) of this section except that the numerator includes gross income, as modified under ~~G.S. 105-134.6~~, G.S. 105-153.5 and G.S. 105-153.6, derived from all sources during the period the individual was a resident.

...."

**SECTION 1.3.(d)** G.S. 105-152 and G.S. 105-151, recodified by this Part as G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

**"§ 105-153.8. Income tax returns.**

(a) Who Must File. – The following individuals ~~shall~~ must file with the Secretary an income tax return under affirmation:

- (1) Every resident required to file an income tax return for the taxable year under the ~~Code and every Code~~.
- (2) Every nonresident individual who (i) ~~derived~~ meets all of the following requirements:
  - a. Receives during the taxable year gross income that is derived from North Carolina sources ~~during the taxable year~~ and is attributable to the ownership of any interest in real or tangible personal property in this State ~~or State~~, is derived from a business, trade, profession, or occupation carried on in this State ~~and (ii) is State~~, or is derived from gambling activities in this State.
  - b. Is required to file an income tax return for the taxable year under the Code.
- (2) ~~Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.~~
- (3) Any individual whom the Secretary believes to be liable for a tax under this Part, when so notified by the Secretary and requested to file a return.

(b) Taxpayer Deceased or Unable to Make Return. – If ~~the a~~ taxpayer is unable to file ~~the an~~ income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or by a guardian or other person charged with the care of the person or property of the taxpayer. taxpayer must file the return. If an individual who was required to file an income tax return for the taxable year while living has died before making the return, the administrator or executor of the estate ~~shall~~ must file the return in the decedent's name and behalf, and the tax ~~shall be levied upon and collected from~~ is payable by the estate.

(c) Information Required With Return. – The income tax return ~~shall~~ must show the ~~taxable income and adjustments~~ adjusted gross income and modifications required by this Part, and any other information the Secretary requires. The Secretary may require some or all individuals required to file an income tax return to attach to the return a copy of their federal income tax return for the taxable year. The Secretary may require a taxpayer to provide the

Department with copies of any other return the taxpayer has filed with the Internal Revenue Service and to verify any information in the return.

(d) Secretary May Require Additional Information. – When the Secretary has reason to believe that any taxpayer conducts a trade or business in a way that directly or indirectly distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income, the Secretary may require any additional information for the proper computation of the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income, the Secretary ~~shall~~must consider the fair profit that would normally arise from the conduct of the trade or business.

(e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross income is determined on a joint federal return ~~shall~~must file a single income tax return jointly if each spouse either is a resident of this State or has North Carolina taxable income and may file a single income tax return jointly if one spouse is not a resident and has no North Carolina taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced by the sum of all credits allowable including tax payments made by or on behalf of the husband and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a substantial understatement by the other spouse pursuant to section 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part attributable to the same substantial understatement by the other spouse. A wife and husband filing jointly have expressly agreed that if the amount of the payments made by them with respect to the taxes for which they are liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses jointly or, if either is deceased, to the survivor alone.

(f) ~~Repealed by Session Laws 1991.~~

**"§ 105-153.9. Tax credits for income taxes paid to other states by individuals.**

(a) An individual who is a resident of this State is allowed a credit against the taxes imposed by this Part for income taxes imposed by and paid to another state or country on income taxed under this Part, subject to the following conditions:

- (1) The credit is allowed only for taxes paid to another state or country on income that is derived from sources within that state or country ~~that and~~ is taxed under its laws irrespective of the residence or domicile of the recipient, except that whenever a taxpayer who is ~~deemed to be considered~~ a resident of this State under ~~the provisions of this Part is deemed also to be considered~~ a resident of another state or country under the laws of that state or country, the Secretary may allow a credit against the taxes imposed by this Part for taxes imposed by and paid to the other state or country on income taxed under this Part.
- (2) The fraction of the gross income, as ~~calculated under the Code and adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, modified as provided in G.S. 105-153.5 and G.S. 105-153.6,~~ that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller.
- (3) Receipts showing the payment of income taxes to another state or country and a true copy of a return or returns upon the basis of which the taxes are assessed shall be filed with the Secretary when the credit is claimed. If credit is claimed on account of a deficiency assessment, a true copy of the notice assessing or proposing to assess the deficiency, as well as a receipt showing the payment of the deficiency, shall be filed.

(b) If any taxes paid to another state or country for which a taxpayer has been allowed a credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that portion of the credit allowed for the taxes so credited or refunded is due and payable from the taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

**SECTION 1.3.(e)** G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business shall report the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The manager of the business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3)~~ G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the profits of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager shall include a copy of the affirmation with the report required by this subsection."

**SECTION 1.3.(f)** G.S. 105-160.3(b) reads as rewritten:

"(b) ~~The following credits are not allowed to an estate or trust:~~The tax credits allowed under G.S. 105-153.9 and G.S. 105-153.10 may not be claimed by an estate or trust.

- (1) ~~G.S. 105-151. Tax credits for income taxes paid to other states by individuals.~~
- (2) ~~G.S. 105-151.11. Credit for child care and certain employment-related expenses.~~
- (3) ~~G.S. 105-151.18. Credit for the disabled.~~
- (4) ~~G.S. 105-151.24. Credit for children.~~
- (5) ~~G.S. 105-151.26. Credit for charitable contributions by nonitemizers.~~
- (7) ~~G.S. 105-151.28. Credit for long-term care insurance.~~
- (8) ~~G.S. 105-151.30. Credit for recycling oyster shells.~~
- (9) ~~G.S. 105-151.31. Earned income tax credit.~~
- (10) ~~G.S. 105-151.32. Credit for adoption expenses.~~
- (11) ~~G.S. 105-151.33. Education expenses credit."~~

**SECTION 1.3.(g)** G.S. 105-163.2B reads as rewritten:

**"§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

The North Carolina State Lottery Commission, established by Chapter 18C of the General Statutes, must deduct and withhold State income taxes from the payment of winnings in an amount of six hundred dollars (\$600.00) or more. The amount of taxes to be withheld is ~~seven percent (7%)~~ a percentage of the winnings. The percentage is the individual income tax rate in G.S. 105-153.7. The Commission must file a return, pay the withheld taxes, and report the amount withheld in the time and manner required under G.S. 105-163.6 as if the winnings were wages. The taxes the Commission withholds are held in trust for the Secretary."

**SECTION 1.3.(h)** This section is effective for taxable years beginning on or after January 1, 2014.

## **PART II. CORPORATE INCOME TAX CHANGES**

**SECTION 2.1.(a)** G.S. 105-130.3 reads as rewritten:

**"§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this ~~State.~~ State at the rate of six percent (6%). An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

<u>Income Years Beginning</u>	<u>Tax</u>
<del>In 1997</del>	<del>7.5%</del>
<del>In 1998</del>	<del>7.25%</del>
<del>In 1999</del>	<del>7%</del>
<del>After 1999</del>	<del>6.9%."</del>

**SECTION 2.1.(b)** The following statutes are repealed:

- G.S. 105-130.22
- G.S. 105-130.34
- G.S. 105-130.36
- G.S. 105-130.37
- G.S. 105-130.39
- G.S. 105-130.43
- G.S. 105-130.44

**SECTION 2.1.(c)** This section is effective for taxable years beginning on or after January 1, 2014.

**SECTION 2.2.(a)** G.S. 105-130.3, as amended by this section, reads as rewritten:  
**"§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this State at the rate of ~~six percent (6%)~~ five percent (5%). An S Corporation is not subject to the tax levied in this section."

**SECTION 2.2.(b)** Part 1 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-130.3A. Rate reduction trigger.**

If the amount of net General Fund tax collected in fiscal year 2014-2015 or fiscal year 2015-2016 exceeds the anticipated General Fund tax collections for that fiscal year, the rate of tax set in G.S. 105-130.3 may be decreased in accordance with this section effective for the taxable year that begins on the following January 1. The amount of net General Fund tax collected for a fiscal year is the amount reported by the State Controller in the State's Comprehensive Annual Financial Report, required to be prepared under G.S. 143B-426.39. The Secretary must monitor the net General Fund tax collections and notify taxpayers if the rate decreases under this section. The rate is decreased by one percent (1%) if net General Fund tax collections for fiscal year 2014-2015 exceed twenty billion two hundred million dollars (\$20,200,000,000). The rate is decreased by one percent (1%) if net General Fund tax collections for fiscal year 2015-2016 exceed twenty billion nine hundred seventy-five million dollars (\$20,975,000,000). Effective for taxable years beginning on or after January 1, 2017, the rate of tax set in G.S. 105-130.3 is the rate determined in accordance with this section."

**SECTION 2.2.(c)** Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2015. The remainder of this section is effective when it becomes law.

**SECTION 2.3.(a)** The title of Article 3F of Chapter 105 of the General Statutes reads as rewritten:

"Article 3F.

~~Technology Research and Development."~~

**SECTION 2.3.(b)** G.S. 105-129.50(4a) and G.S. 105-129.56 are repealed.

**SECTION 2.3.(c)** G.S. 105-129.51(b) reads as rewritten:

"(b) This Article is repealed for taxable years beginning on or after ~~January 1, 2014~~ January 1, 2016."

**SECTION 2.3.(d)** G.S. 105-129.54(1) reads as rewritten:

**"§ 105-129.54. Report.**

The Department must include in the economic incentives report required by G.S. 105-256 the following information itemized by credit and by taxpayer:

- (1) ~~The number of taxpayers that took a credit allowed in this Article. The credit allowed under G.S. 105-129.55 must be Article, itemized by the categories of small business, low-tier, university research, Eco-Industrial Park, and other. The credit allowed under G.S. 105-129.56 must be itemized by the categories of higher education collaboration and other.~~

....

**SECTION 2.3.(e)** This section is effective for taxable years beginning on or after January 1, 2014.

**SECTION 2.4.(a)** G.S. 115C-546.1 reads as rewritten:

**"§ 115C-546.1. Creation of Fund; administration.**

(a) There is created the Public School Building Capital Fund. The Fund shall be used to assist county governments in meeting their public school building capital needs and their equipment needs under their local school technology plans.

(b) ~~Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer for credit to the Public School Building Capital Fund an amount equal to the applicable fraction provided in the table below of the net collections received during the previous quarter by the Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

Period	Fraction
10/1/97 to 9/30/98	One fifteenth (1/15)
10/1/98 to 9/30/99	Two twenty ninths (2/29)

~~10/1/99 to 9/30/00~~  
~~After 9/30/00~~

~~One-fourteenth (1/14)~~  
~~Five-sixty-ninths (5/69)~~

- (c) The Fund shall be administered by the Department of Public Instruction."  
**SECTION 2.4.(b)** G.S. 115C-546.2(a) is repealed.  
**SECTION 2.4.(c)** This section is effective when it becomes law.

### **PART III. SALES TAX CHANGES**

**SECTION 3.1.(a)** G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...  
(1a) The general rate of two percent (2%) applies to the sales price of each manufactured home sold at retail, including all accessories attached to the manufactured home when it is delivered to the purchaser. ~~The maximum tax is three hundred dollars (\$300.00) per article. Each section of a manufactured home that is transported separately to the site where it is to be erected is a separate article.~~

...  
(8) The general rate of two and one-half percent (2.5%) applies to the sales price of each modular home sold at retail, including all accessories attached to the modular home when it is delivered to the purchaser. The sale of a modular home to a modular homebuilder is considered a retail sale. A person who sells a modular home at retail is allowed a credit against the tax imposed by this subdivision for sales or use tax paid to another state on tangible personal property incorporated in the modular home. The retail sale of a modular home occurs when a modular home manufacturer sells a modular home to a modular homebuilder or directly to the end user of the modular home."

**SECTION 3.1.(b)** G.S. 105-164.44G is repealed.

**SECTION 3.1.(c)** G.S. 105-467(a) reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

- (1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under ~~G.S. 105-164.4~~ G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.
- (2) ~~through (4)~~ Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.
- (5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.
- (5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.
- (5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).
- (6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

**SECTION 3.1.(d)** This section becomes effective January 1, 2014, and applies to sales made on or after that date.

**SECTION 3.2.(a)** G.S. 105-164.13(13c), (27), and (28) are repealed.

**SECTION 3.2.(b)** G.S. 105-164.13(26) reads as rewritten:

#### **"§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

...

- (26) ~~Food sold not for profit by public or private school cafeterias a nonpublic or public school, including a charter school and a regional school, within the school buildings-building during the regular school day.~~

....

**SECTION 3.2.(c)** G.S. 105-164.15A reads as rewritten:

**"§ 105-164.15A. Effective date of tax ~~changes on services and items taxed at combined general rate changes.~~**

(a) ~~Services—General Rate Items.~~ – The effective date of a tax change for a service tangible personal property, digital property, or services taxable under this Article is administered as follows:

- (1) For a ~~service~~ taxable item that is provided and billed on a monthly or other periodic basis:
  - a. A new tax or a tax rate increase applies to the first billing period that is at least 30 days after enactment and that starts on or after the effective date.
  - b. A tax repeal or a tax rate decrease applies to bills rendered on or after the effective date.
- (2) For a ~~service~~ taxable item that is not billed on a monthly or other periodic basis, a tax change applies to amounts received for ~~services—items~~ provided on or after the effective date, except amounts received for services—items provided under a lump-sum or unit-price contract entered into or awarded before the effective date or entered into or awarded pursuant to a bid made before the effective date.

(b) **Combined Rate Items.** – The effective date of a rate change for an item that is taxable under this Article at the combined general rate is the effective date of any of the following:

- (1) The effective date of a change in the State general rate of tax set in G.S. 105-164.4.
- (2) For an increase in the authorization for local sales and use taxes, the date on which local sales and use taxes authorized by Subchapter VIII of this Chapter for every county become effective in the first county or group of counties to levy the authorized taxes.
- (3) For a repeal in the authorization for local sales and use taxes, the effective date of the repeal."

**SECTION 3.2.(d)** This section becomes effective January 1, 2014, and applies to sales made on or after that date.

**SECTION 3.3.(a)** Part 3 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-164.13E. Exemption for farmers.**

The following tangible personal property, digital property, and services are exempt from sales and use tax if purchased by a qualifying farmer and for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A qualifying farmer is a farmer who has an annual gross income of ten thousand dollars (\$10,000) or more from farming operations for the preceding calendar year and includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.

- (1) Fuel and electricity that is measured by a separate meter or another separate device and used for a purpose other than preparing food, heating dwellings, and other household purposes.
- (2) Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.
- (3) Farm machinery, attachment and repair parts for farm machinery, and lubricants applied to farm machinery. The term "machinery" includes implements that have moving parts or are operated or drawn by an animal. The term does not include implements operated wholly by hand or motor vehicles required to be registered under Chapter 20 of the General Statutes.
- (4) A container used in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals or used in packaging and transporting the farmer's product for sale.

- (5) A grain, feed, or soybean storage facility and parts and accessories attached to the facility.
- (6) Any of the following substances when purchased for use on animals or plants, as appropriate, held or produced for commercial purposes. This exemption does not apply to any equipment or devices used to administer, release, apply, or otherwise dispense these substances:
  - a. Remedies, vaccines, medications, litter materials, and feeds for animals.
  - b. Rodenticides, insecticides, herbicides, fungicides, and pesticides.
  - c. Defoliant for use on cotton or other crops.
  - d. Plant growth inhibitors, regulators, or stimulators, including systemic and contact or other sucker control agents for tobacco and other crops.
  - e. Semen.
- (7) Baby chicks and poults sold for commercial poultry or egg production.
- (8) Any of the following items concerning the housing, raising, or feeding of animals:
  - a. A commercially manufactured facility to be used for commercial purposes for housing, raising, or feeding animals or for housing equipment necessary for these commercial activities. The exemption also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the facility.
  - b. Building materials, supplies, fixtures, and equipment that become a part of and are used in the construction, repair, or improvement of an enclosure or a structure specifically designed, constructed, and used for housing, raising, or feeding animals or for housing equipment necessary for one of these commercial activities. The refund also applies to commercially manufactured equipment, and parts and accessories for the equipment, used in the enclosure or a structure.
- (9) A bulk tobacco barn or rack, parts and accessories attached to the tobacco barn or rack, and any similar apparatus, part, or accessory used to cure or dry tobacco or another crop."

**SECTION 3.3.(b)** G.S. 105-164.13(1), (1a), (1b), (2a), (4a), (4c), and (4d) are repealed.

**SECTION 3.3.(c)** This section becomes effective July 1, 2014, and applies to sales made on or after that date.

**SECTION 3.4.(a)** G.S. 105-164.13(27a), 105-164.13C, and 105-164.13D are repealed.

**SECTION 3.4.(b)** G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service, for use in carrying on the work of the nonprofit entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed an entity under this subsection for a fiscal year may not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

The refunds allowed under this subsection do not apply to an entity that is owned and controlled by the United States or to an entity that is owned or controlled by the State and is not listed in this subsection. A hospital that is not listed in this subsection is allowed a semiannual refund of sales and use taxes paid by it on medicines and drugs purchased for use in carrying out its work. The following nonprofit entities are allowed a refund under this subsection:

- (1) Hospitals not operated for profit, including hospitals and medical accommodations operated by an authority or other public hospital described in Article 2 of Chapter 131E of the General Statutes.
- (2) An organization that is exempt from income tax under section 501(c)(3) of the Code, other than an organization that is properly classified in any of the following major group areas of the National Taxonomy of Exempt Entities:
  - a. Community Improvement and Capacity Building.
  - b. Public and Societal Benefit.
  - c. Mutual and Membership Benefit.
- (2a) An organization that is exempt from income tax under the Code and is one of the following:
  - a. A volunteer fire department.
  - b. A volunteer emergency medical services squad.
- (3) Repealed by Session Laws 2008-107, s. 28.22(a), effective July 1, 2008, and applicable to purchases made on or after that date.
- (4) Qualified retirement facilities whose property is excluded from property tax under G.S. 105-278.6A.
- (5) A university affiliated nonprofit organization that procures, designs, constructs, or provides facilities to, or for use by, a constituent institution of The University of North Carolina. For purposes of this subdivision, a nonprofit organization includes an entity exempt from taxation as a disregarded entity of the nonprofit organization."

**SECTION 3.4.(c)** G.S. 105-467(b) reads as rewritten:

"(b) Exemptions and Refunds. – The State exemptions and exclusions contained in ~~G.S. 105-164.13, the State sales and use tax holidays contained in G.S. 105-164.13C and G.S. 105-164.13D, and the State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B~~ G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under this Article. The State refund provisions contained in G.S. 105-164.14 through G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed under this Article. Except ~~The aggregate annual local refund amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen million three hundred thousand dollars (\$13,300,000).~~

Except as provided in this subsection, a taxing county may not allow an exemption, exclusion, or refund that is not allowed under the State sales and use tax. A local school administrative unit and a joint agency created by interlocal agreement among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by the entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the entity and is being erected, altered, or repaired for use by the entity is considered a sales or use tax liability incurred on direct purchases by the entity for the purpose of this subsection. ~~A request for a refund shall be in writing and shall include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the entity's fiscal year, in the same time and manner as provided in G.S. 105-164.14. Refunds applied for more than three years after the due date are barred.~~

**SECTION 3.4.(d)** G.S. 105-467(a), as amended by this Part, reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

- (1) A retailer's net taxable sales and gross receipts that are subject to the general rate of sales tax imposed by the State under G.S. 105-164.4 except the tax does not apply to the sales price of a manufactured home or a modular home.
- (2) through (4) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011.
- (5) The sales price of food that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to G.S. 105-164.13B.

- (5a) The sales price of a bundled transaction that includes food subject to tax under subdivision (5) of this subsection, if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.
- ~~(5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store and are exempt from State tax under G.S. 105-164.13(27a).~~
- (6), (7) Repealed by Session Laws 2011-330, s. 45, effective June 27, 2011."

**SECTION 3.4.(e)** This section becomes effective July 1, 2014, and applies to purchases made on or after that date.

**SECTION 3.5.(a)** G.S. 105-164.14A(a) reads as rewritten:

"(a) Refund. – The following taxpayers are allowed an annual refund of sales and use taxes paid under this Article:

- (1) Passenger air carrier. – An interstate passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of two million five hundred thousand dollars (\$2,500,000). The amount of sales and use tax paid does not include a refund allowed to the interstate passenger air carrier under G.S. 105-164.14(a). This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~January 1, 2016.

- ...
- (4) Motorsports team or sanctioning body. – A professional motorsports racing team, a motorsports sanctioning body, or a related member of such a team or body is allowed a refund of the sales and use tax paid by it in this State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel to a motorsports event in another state from a location in this State, or to travel to this State from a motorsports event in another state. For purposes of this subdivision, a "motorsports event" includes a motorsports race, a motorsports sponsor event, and motorsports testing. This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~January 1, 2016.

- (5) Professional motorsports team. – A professional motorsports racing team or a related member of a team is allowed a refund of fifty percent (50%) of the sales and use tax paid by it in this State on tangible personal property, other than tires or accessories, that comprises any part of a professional motorsports vehicle. For purposes of this subdivision, "motorsports accessories" includes instrumentation, telemetry, consumables, and paint. This subdivision is repealed for purchases made on or after ~~January 1, 2014.~~January 1, 2016.

....."  
**SECTION 3.5.(b)** This section is effective when it becomes law.

**PART IV. ELECTRICITY AND PIPED NATURAL GAS TAX CHANGES**

**SECTION 4.1.(a)** G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

**SECTION 4.1.(b)** G.S. 105-130.6A(a)(4) reads as rewritten:

"(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the following definitions apply in this section:

- (4) Electric power holding company. – A holding company with an affiliate or a subsidiary that is engaged in the business of producing electric power ~~subject to the franchise tax on electric power companies levied in G.S. 105-116.~~

....."  
**SECTION 4.1.(c)** G.S. 105-164.4(a)(1f) and (a)(4a) are repealed.

**SECTION 4.1.(d)** G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

**SECTION 4.1.(e)** G.S. 105-164.4(a) is amended by adding a new subdivision to read:

- "(9) The combined general rate applies to the gross receipts derived from sales of electricity and piped natural gas."

**SECTION 4.1.(f)** This section becomes effective July 1, 2014, and applies to gross receipts billed on or after that date.

**SECTION 4.2.(a)** Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must adjust the rate set for the following utilities:

- (1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-122 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.
- (2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

**SECTION 4.2.(b)** This section is effective when it becomes law.

**SECTION 4.3.(a)** Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding two new sections to read:

**"§ 105-164.44K. Distribution of part of tax on electricity to cities.**

(a) Distribution. – The Secretary must distribute to cities forty-four percent (44%) of the net proceeds of the tax collected under G.S. 105-164.4 on electricity, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its franchise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. If the net proceeds of the tax allocated under this section are not sufficient to distribute the franchise tax share of each city under subsection (b) of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Franchise Tax Share. – The quarterly franchise tax share of a city is the total amount of electricity gross receipts franchise tax distributed to the city under repealed G.S. 105-116.1 for the same related quarter that was the last quarter in which taxes were imposed on electric power companies under repealed G.S. 105-116. The quarterly franchise tax share of a city includes adjustments made for the hold-harmless amounts under repealed G.S. 105-116. If the franchise tax share of a city, including the hold-harmless adjustments, is less than zero, then the amount is zero. The determination made by the Department with respect to a city's franchise tax share is final and is not subject to administrative or judicial review.

The franchise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-116.1 is adjusted as follows:

- (1) If a city dissolves and is no longer incorporated, the franchise tax share of the city is added to the amount distributed under subsection (c) of this section.
- (2) If two or more cities merge or otherwise consolidate, their franchise tax shares are combined.
- (3) If a city divides into two or more cities, the franchise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's franchise tax share under subsection (b) of this section. The prohibitions in G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities. The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this subsection based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(d) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. The Governor may not reduce or withhold the distribution.

**"§ 105-164.44L. Distribution of part of tax on piped natural gas to cities.**

(a) Distribution. – The Secretary must distribute to cities twenty percent (20%) of the net proceeds of the tax collected under G.S. 105-164.4 on piped natural gas, less the cost to the Department of administering the distribution. Each city's share of the amount to be distributed is its excise tax share calculated under subsection (b) of this section plus its ad valorem share calculated under subsection (c) of this section. If the net proceeds of the tax allocated under this section are not sufficient to distribute the excise tax share of each city under subsection (b) of this section, the proceeds shall be distributed to each city on a pro rata basis. The Secretary must make the distribution within 75 days after the end of each quarter.

(b) Excise Tax Share. – The quarterly excise tax share of a city that is not a gas city is the amount of piped natural gas excise tax distributed to the city under repealed G.S. 105-187.44 for the same related quarter that was the last quarter in which taxes were imposed on piped natural gas under repealed Article 5E of this Chapter. The Secretary must determine the excise tax share of a gas city and divide that amount by four to calculate the quarterly distribution amount for a gas city. The excise tax share of a gas city is the amount the gas city would have received under repealed G.S. 105-187.44 for the last year in which taxes were imposed under repealed Article 5E of this Chapter if piped natural gas consumed by the city or delivered by the city to a customer had not been exempt from tax under repealed G.S. 105-187.41(c)(1) and (c)(2). A gas city must report the information required by the Secretary to make the distribution under this section in the form, manner, and time required by the Secretary. For purposes of this subsection, the term "gas city" has the same meaning as defined in repealed G.S. 105-187.40. The determination made by the Department with respect to a city's excise tax share is final and is not subject to administrative or judicial review.

The excise tax share of a city that has dissolved, merged with another city, or divided into two or more cities since it received a distribution under repealed G.S. 105-187.44 is adjusted as follows:

- (1) If a city dissolves and is no longer incorporated, the excise tax share of the city is added to the amount distributed under subsection (c) of this section.
- (2) If two or more cities merge or otherwise consolidate, their excise tax shares are combined.
- (3) If a city divides into two or more cities, the excise tax share of the city that divides is allocated among the new cities in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the city.

(c) Ad Valorem Share. – The ad valorem share of a city is its proportionate share of the amount that remains for distribution after determining each city's excise tax share under subsection (b) of this section. The prohibitions in G.S. 105-472(d) on the receipt of funds by a city apply to the distribution under this subsection.

A city's proportionate share is the amount of ad valorem taxes it levies on property having a tax situs in the city compared to the ad valorem taxes levied by all cities on property having a tax situs in the cities. The ad valorem method set out in G.S. 105-472(b)(2) applies in determining the share of a city under this section based on ad valorem taxes, except that the amount of ad valorem taxes levied by a city does not include ad valorem taxes levied on behalf of a taxing district and collected by the city.

(d) Nature. – The General Assembly finds that the revenue distributed under this section is local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of the North Carolina Constitution. The Governor may not reduce or withhold the distribution."

**SECTION 4.3.(b)** This section is effective for quarters beginning on or after July 1, 2014.

**SECTION 4.4.(a)** G.S. 160A-211 reads as rewritten:

"(c) Prohibition. – A city may not impose a license, franchise, or privilege tax on a person engaged in any of the businesses listed in this subsection. These businesses are subject to a State tax-sales tax at the combined general rate for which the city receives a share of the tax revenue.revenue or they are subject to the local sales tax.

- (1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.gas.
- (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).
- (3) Providing video programming taxed under G.S. 105-164.4(a)(6).
- (4) Providing electricity. A city may continue to impose and collect the license, franchise, or privilege taxes on an electric power company that it imposed and collected on or before January 1, 1947, but it may not impose or collect

any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947."

**SECTION 4.4.(b)** This section becomes effective July 1, 2014.

**SECTION 4.5.(a)** Section 3 of Chapter 347 of the 1965 Session Laws reads as rewritten:

"Sec. 3. All property owned by Cape Hatteras Electric Membership Corporation ~~and used exclusively for the purpose of said corporation shall be held in the same manner and subject to the same taxes and assessments is exempt from property taxes to the same extent as property owned by any county or municipality of the State so long as said the property is owned by said Cape Hatteras Electric Membership Corporation and is held and used by it solely for the furnishing of electric energy to consumers on Hatteras Island and Ocracoke Island. Cape Hatteras Electric Membership Corporation is subject to any other taxes to the same extent as other electric membership corporations established under Chapter 117 of the General Statutes."~~

**SECTION 4.5.(b)** This section becomes effective July 1, 2014.

## **PART V. ADMISSION CHARGES TO AN ENTERTAINMENT ACTIVITY**

**SECTION 5.(a)** G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

**SECTION 5.(b)** G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

### **"§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...  
(10) The general rate of tax applies to admission charges to an entertainment activity listed in this subdivision. Offering any of these listed activities is a service. An admission charge includes a charge for a single ticket, a multioccasion ticket, a seasonal pass, an annual pass, and a cover charge.

An admission charge does not include a charge for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

When an admission ticket is resold and the price of the admission ticket is printed on the face of the ticket, the tax does not apply to the face price. When an admission ticket is resold and the price of the admission ticket is not printed on the face of the ticket, the tax applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

Admission charges to the following entertainment activities are subject to tax:

- a. A live performance or other live event of any kind.
- b. A motion picture or film.
- c. A museum, a cultural site, a garden, an exhibit, a show, or a similar attraction or a guided tour at any of these attractions."

**SECTION 5.(c)** G.S. 105-164.13 is amended by adding the following new subdivision to read:

### **"§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

- ...  
(60) Admission charges to any of the following entertainment activities:
- a. An event that is held at an elementary or secondary school and is sponsored by the school.
  - b. A commercial agricultural fair that meets the requirements of G.S. 106-520.1, as determined by the Commissioner of Agriculture.

- c. A festival or other recreational or entertainment activity that lasts no more than seven consecutive days and is sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter and uses the entire proceeds of the activity exclusively for the entity's nonprofit purposes. This exemption applies to the first two activities sponsored by the entity during a calendar year.
- d. A youth athletic contest sponsored by a nonprofit entity that is exempt from tax under Article 4 of this Chapter. For the purpose of this subdivision, a youth athletic contest is a contest in which each participating athlete is less than 20 years of age at the time of enrollment.
- e. A State attraction."

**SECTION 5.(d)** The following statutes are repealed:

- G.S. 106-507
- G.S. 106-516
- G.S. 106-517
- G.S. 106-518
- G.S. 106-519
- G.S. 106-520
- G.S. 140-10.1

**SECTION 5.(e)** G.S. 105-164.10 reads as rewritten:

**"§ 105-164.10. Retail bracket system tax calculation.**

For the convenience of the retailer in collecting the tax due under this Article, the Secretary ~~shall~~must prescribe tables that compute the tax due on sales by rounding off the amount of tax due to the nearest whole cent. The Secretary ~~shall~~must issue a separate table for each rate of tax that may apply to a sale, ~~including the general rate established in G.S. 105-164.4, preferential rates, and combined State and local rates. Use of the tables prescribed by the Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross receipts or net taxable sales of the retailer.~~sale."

**SECTION 5.(f)** This section becomes effective January 1, 2014, and applies to admissions purchased on or after that date. For admissions to a live event, the tax applies to the initial sale or resale of tickets occurring on or after that date; gross receipts received on or after January 1, 2014, for admission to a live event, for which the initial sale of tickets occurred before that date, other than gross receipts received by a ticket reseller, are taxable under G.S. 105-37.1.

**PART VI. SERVICE CONTRACTS**

**SECTION 6.(a)** G.S. 105-164.3 is amended by adding a new subdivision to read:

**"§ 105-164.3. Definitions.**

The following definitions apply in this Article:

...  
**(38b)** Service contract. – A warranty agreement, a maintenance agreement, a repair contract, or a similar agreement or contract by which the seller agrees to maintain or repair tangible personal property.  
 ....

**SECTION 6.(b)** G.S. 105-164.4(a) is amended by adding the following new subdivision to read:

**"§ 105-164.4. Tax imposed on retailers.**

(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and three-quarters percent (4.75%).

...  
**(11)** The general rate of tax applies to the sales price of a service contract."

**SECTION 6.(c)** G.S. 105-164.13 is amended by adding two new subdivisions to read:

**"§ 105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following tangible personal property, digital property, and services are specifically exempted from the tax imposed by this Article:

- ...
- (61) A service contract for tangible personal property that is provided for any of the following:
- a. An item exempt from tax under this Article, other than an item exempt from tax under G.S. 105-164.13(32).
  - b. A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.
- (62) An item used to maintain or repair tangible personal property pursuant to a service contract if the purchaser of the contract is not charged for the item."

**SECTION 6.(d)** This section becomes effective January 1, 2014, and applies to sales made on or after that date.

## **PART VII. ELIMINATE ESTATE TAX**

**SECTION 7.(a)** Article 1A of Chapter 105 of the General Statutes is repealed.

**SECTION 7.(b)** G.S. 105-241.10 reads as rewritten:

### **"§ 105-241.10. Limit on refunds and assessments after a federal determination.**

The limitations in this section apply when a taxpayer files a timely return reflecting a federal determination that affects the amount of State tax payable and the general statute of limitations for requesting a refund or proposing an assessment of the State tax has expired. A federal determination is a correction or final determination by the federal government of the amount of a federal tax due. A return reflecting a federal determination is timely if it is filed within the time required by ~~G.S. 105-32.8, 105-130.20~~ G.S. 105-130.20, 105-159, 105-160.8, or 105-163.6A, as appropriate. The limitations are:

- (1) Refund. – A taxpayer is allowed a refund only if the refund is the result of adjustments related to the federal determination.
- (2) Assessment. – A taxpayer is liable for additional tax only if the additional tax is the result of adjustments related to the federal determination. A proposed assessment may not include an amount that is outside the scope of this liability."

**SECTION 7.(c)** G.S. 105-236(a)(5) reads as rewritten:

"(a) Penalties. – The following civil penalties and criminal offenses apply:

...

(5) Negligence. –

...

e. ~~Estate tax deficiencies. — This subdivision does not apply to estate tax deficiencies that are the result of valuation understatements.~~

...."

**SECTION 7.(d)** This section becomes effective January 1, 2013, and applies to the estates of decedents dying on or after that date.

## **PART VIII. CAP EXCISE TAX ON MOTOR FUEL**

**SECTION 8.(a)** Notwithstanding G.S. 105-449.80(a), for the period October 1, 2013, through June 30, 2015, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon.

**SECTION 8.(b)** This section is effective when it becomes law.

## **PART IX. STUDY AND EFFECTIVE DATE**

**SECTION 9.(a)** This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before the effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a tax that accrued under the amended or repealed statute before the effective date of its amendment or repeal.

**SECTION 9.(b)** G.S. 105-237.1(a) reads as rewritten:

"(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the best interest of the State and makes one or more of the following findings:

- ...
- (6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the assessment is for sales or use tax the retailer failed to collect or the person

failed to pay on an item taxable under G.S. 105-164.4(a)(10) and (a)(11), and the retailer or person made a good-faith effort to comply with the sales and use tax laws. This subdivision expires for assessments issued after July 1, 2020."

**SECTION 9.(c)** The Revenue Laws Study Committee is directed to study the tax issues listed in this subsection. The Committee may report its findings, together with any recommended legislation, to the 2014 Regular Session of the 2013 General Assembly upon its convening.

- (1) The scope and application of the privilege tax at the rate of one percent (1%) with a cap of eighty dollars (\$80.00) that applies to mill machinery and on other machinery and equipment purchased by certain industries and companies.
- (2) The feasibility of a preferential tax rate on diesel fuel sold to railroads, fuel sold to passenger air carriers, and fuel sold to motorsports.
- (3) The authority of cities and counties to impose a privilege tax on businesses and the various State privilege license taxes.
- (4) The impact of the elimination of the State and local sales and use tax refund on nonprofit entities and their ability to fulfill their stated mission.
- (5) The benefits and fiscal impact of allowing corporations to deduct net operating losses as opposed to net economic losses.
- (6) The simplification of the franchise tax base calculation and the elimination of the franchise tax.
- (7) The feasibility of expanding the sales tax base to include additional services.
- (8) The application of the corporate income tax rate reduction trigger formula.
- (9) The low-income housing tax credit.
- (10) The distribution of the sales tax collected on electricity and piped natural gas to cities.

**SECTION 9.(d)** Except as otherwise provided, this act is effective when it becomes law.

In the General Assembly read three times and ratified this the 17<sup>th</sup> day of July, 2013.

s/ Philip E. Berger  
President Pro Tempore of the Senate

s/ Thom Tillis  
Speaker of the House of Representatives

---

Pat McCrory  
Governor

Approved \_\_\_\_\_ .m. this \_\_\_\_\_ day of \_\_\_\_\_, 2013